

Message Text

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PAGE 01 NATO 07245 01 OF 02 271235Z
ACTION EUR-12

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NSAE-00 PA-01 SS-15 PRS-01 SP-02 USIA-06 TRSE-00
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LIMITED OFFICIAL USE SECTION 01 OF 02 NATO 07245

E.O. 11652: N/A
TAGS: NATO, APER, AORG
SUBJECT: NATO CIVILIAN PERSONNEL REGULATIONS

REF: (A) NATO 05980, (B) STATE 153305 (C) NATO 07061
A. UK PERMREP KILLICK PROVIDED NATO PERMREPS ON JULY 11
WITH A LETTER HE HAD SENT TO SYG LUNS ON CIVILIAN PERSONNEL
REGULATIONS. THE PERTINENT POINTS ARE:

1. DECISION NO. 76 OF NOVEMBER 17, 1976, OF THE NATO
APPEALS BOARD INTERPRETS ARTICLE 57.1 OF THE NATO CIVILIAN
PERSONNEL REGULATIONS (CPR) TO MEAN THAT A NATO BODY CAN-
NOT LEGALLY APPOINT AN OUTSIDE CANDIDATE IF ONE OR MORE
CANDIDATES FROM WITHIN NATO ARE SUITABLE FOR THE POSITION.
THIS INTERPRETATION HAS ALREADY RESULTED IN SELECTING A
NATO EMPLOYEE WHO MET THE MINIMUM REQUIREMENTS OVER AN
OUTSTANDING OUTSIDE APPLICANT.

2. THIS INTERPRETATION SEEMS TO CONFLICT WITH ARTICLES
1.1 AND 2 OF THE CPR. UK AUTHORITIES BELIEVE ARTICLE 57.1
IMPOSED AN OBLIGATION TO CIRCULATE VACANCY NOTICES AND TO
INTERVIEW PRESENT NATO EMPLOYEES, BUT THAT OUTSIDE CAND-
IDATES SHOULD HAVE EQUAL OPPORTUNITY FOR THE JOBS OFFERED,
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PAGE 02 NATO 07245 01 OF 02 271235Z

AND, IF AN OUTSIDE CANDIDATE IS BETTER QUALIFIED, HE SHOULD
BE GIVEN THE POSITION.

3. UK PERMREP HAD INFORMAL DISCUSSION WITH NATO APPEALS
BOARD MEMBERS, WHO CONFIRMED THEIR VIEW THAT IF A NATO
CANDIDATE MET THE MINIMUM REQUIREMENTS OF A PARTICULAR
VACANCY HE MUST LEGALLY BE APPOINTED.

4. UK AUTHORITIES SEEK COUNCIL APPROVAL TO AMEND ARTICLE 57.1 SO THAT THE INTERPRETATION GIVEN IN PARAGRAPH 2 ABOVE WOULD BE FOLLOWED.

5. UK PERMREP EMPHASIZED THAT HE WAS NOT SEEKING TO REDUCE LEGITIMATE INTERESTS OF PRESENT NATO EMPLOYEES, THAT IF AN EMPLOYEE HAD BETTER EXPERIENCE AND QUALIFICATIONS THAN AN OUTSIDE APPLICANT, HE SHOULD HAVE THE POSITION. HE BELIEVED THAT OPEN COMPETITION WITH OUTSIDE CANDIDATES IS GOOD FOR ORGANIZATION AND IN LINE WITH ACCEPTED PERSONNEL POLICY IN MEMBER COUNTRIES. IF GENERAL VIEW IS THAT ARTICLE 57.1 BE CLARIFIED, HE RECOMMENDED THAT A NEW ARTICLE 57.3 BE INSERTED AS FOLLOWS:

QUOTE- SERVING CIVILIAN STAFF AND REDUNDANT STAFF MEMBERS CONSIDERED SUITABLE FOR ANY VACANT POST SHOULD BE CONSIDERED TOGETHER WITH ANY NATIONALS OF MEMBER COUNTRIES WHO HAVE APPLIED FOR THE VACANT POST. -END QUOTE.

PRESENT ARTICLE 57.3 WOULD BE RENUMBERED AS 57.4 WITH THE ADDITION OF THE FOLLOWING:

QUOTE- SELECTION SHALL HAVE REGARD TO THE PRINCIPLES SET OUT IN ARTICLE 1 AND IN SELECTING . . . -END QUOTE.

6. SINCE DECISIONS OF APPEALS BOARD CAN ONLY BE OVERRULED LIMITED OFFICIAL USE

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PAGE 03 NATO 07245 01 OF 02 271235Z

BY THE COUNCIL, HE ASKS FOR AN EARLY DISCUSSION OF THE UK PROPOSAL, PERHAPS INFORMALLY, DURING A PERMREPS'S LUNCHEON.

B. SYG LUNS PRESENTED A WRITTEN COMMENT ON THE UK LETTER AT THE PERMREP'S LUNCHEON OF JULY 20 (REFTEL B, PARA 8). THE PERTINENT POINTS ARE:

1. APPEALS BOARD HAD IGNORED ARTICLE 1 OF THE CPR, WHERE THE BASIC APPOINTMENT POLICY IS DEFINED:

QUOTE- THE PARAMOUNT CONSIDERATION IN THE APPOINTMENT OF THE STAFF SHALL BE THE NECESSITY OF SECURING THE HIGHEST STANDARDS OF DILIGENCE, COMPETENCE AND INTEGRITY. -END QUOTE.

2. THE APPEALS BOARD HAD IGNORED ITS DECISION NO. 34 WHERE IT HAD LINKED ARTICLES 1 AND 57.1; WHEN IT SAID THAT ARTICLE 57.1 DID NOT PRECLUDE THE SIMULTANEOUS CONSIDERATION OF OUTSIDE AND NATO CANDIDATES, BUT ONLY REQUIRED THAT THE QUALIFICATIONS OF PRESENT EMPLOYEES BE CONSIDERED BEFORE SELECTING AN OUTSIDE APPLICANT.

THE PRESENT DECISION HAD BEEN TAKEN WITHOUT REFERRING TO THE DISCUSSIONS OF ARTICLE 57 HELD IN THE JOINT CONSULTATIVE BOARD BETWEEN REPRESENTATIVES OF THE NATO-WIDE STAFF ASSOCIATIONS AND ADMINISTRATIONS. THESE DISCUSSIONS HAD SHOWN THAT APPLICATIONS WOULD BE CONSIDERED FROM BOTH PRESENT NATO EMPLOYEES AS WELL AS OUTSIDE CANDIDATES ON THE BASIS OF EQUALITY. ONLY IF THE NATO CANDIDATE HAS QUALIFICATIONS AT LEAST EQUAL TO THE BEST OUTSIDE CANDIDATE WOULD HE BE RECOMMENDED FOR THE APPOINTMENT.

3. THE STAFF HAS BEEN CONCERNED THAT THEY BE INFORMED OF AND CONSIDERED FOR VACANCIES, AND ARTICLE 57.1 MEETS THEIR

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PAGE 01 NATO 07245 02 OF 02 271238Z
ACTION EUR-12

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LIMITED OFFICIAL USE SECTION 02 OF 02 NATO 07245

CONCERN. THE SYG SAID:

QUOTE- THERE IS NO CAREER SYSTEM IN NATO, AND THE ONLY WAY IN WHICH A STAFF MEMBER CAN RECEIVE PROMOTION IS THROUGH SUCCESSFUL APPLICATION FOR A HIGHER GRADED POST. -END QUOTE

4. THE WORDING OF THE APPEALS BOARD DECISION DOES REQUIRE CLARIFICATION OF THE TEXT OF ARTICLE 57, AND REFERRING TO ARTICLE 1 WOULD DO THIS. THE SYG DOES NOT LIKE PROPOSED WORDING OF ARTICLE 57.3 SINCE IT IMPLIES THAT SERVING STAFF MEMBERS ARE NO LONGER NATIONALS OF MEMBER COUNTRIES, AND HE DOES NOT BELIEVE REDUNDANT STAFF SHOULD BE MENTIONED. REDUNDANT STAFF SHOULD BE GIVEN PRIORITY WHERE THEIR QUALIFICATIONS MAKE THEM SUITABLE AND ACCEPTABLE CANDIDATES.

5. SYG LUNS WILL ASK HIS ADMINISTRATIVE AND LEGAL SERVICES TO PREPARE AN AMENDED TEXT FOR ARTICLE 57, ASAP.

6. LUNS POINTED OUT THAT ANY AMENDMENTS TO THE STAFF RULES ARE DISCUSSED WITH THE NATO STAFF ASSOCIATIONS DURING THE NORMAL JOINT CONSULTATIVE BOARD MEETING, NEXT SCHEDULED FOR NOVEMBER. IF THIS CONSULTATION WERE OMITTED, THE STAFF MIGHT RECEIVE THE IMPRESSION THAT BECAUSE THE APPEALS LIMITED OFFICIAL USE

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PAGE 02 NATO 07245 02 OF 02 271238Z

BOARD DECISION WAS FAVORABLE TO THE STAFF THE COUNCIL IMMEDIATELY DECIDED TO AMEND THAT REGULATION. QUOTE- I AM WONDERING WHETHER IN THE PRESENT ATMOSPHERE THIS IS WISE. -END QUOTE. HE ASKED THE COUNSEL OF THE PERMREPS IN THIS REGARD.

C. THE UK BUDGET OFFICER ADVISED THAT THE UK WOULD BE WILLING FOR THE PROPOSED TEXT TO BE CONSIDERED DURING THE NORMAL CONSULTATIVE MEETING, ON THE UNDERSTANDING THAT A COMMON POSITION HAD BEEN REACHED BY ALL DELEGATIONS AND THE SYG PRIOR TO THAT NOVEMBER MEETING.

D. COMMENT: AS SOON AS THE PROPOSED TEXT TO ARTICLE 57 IS RECEIVED FROM THE SYG IT WILL BE FORWARDED. THE UK POSITION SEEMS LOGICAL AND ONE WE COULD WELL FOLLOW. END COMMENT.

E. ACTION REQUESTED: DEPARTMENT'S CONCURRENCE WITH PARAGRAPH D AND ANY FURTHER ADVICE IN THIS MATTER.
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